

### Subpart D—Suspension or Termination of Collection Action

#### **§1018.60 When collection action may be suspended or terminated.**

The Board may suspend or terminate collection action on a claim not in excess of the monetary limitation, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments, if any, if it has not been referred to GAO or DOJ for litigation.

#### **§1018.61 Reasons for suspending collection action.**

Collection action may be suspended temporarily:

(a) When the debtor cannot be located after diligent efforts, and there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim considering the size of the claim and the amount which may be realized on it; or

(b) When the debtor owns no substantial equity in realty and is unable to make payments on the Government's claim or effect a compromise on it at the time, but the debtor's future prospects justify retention of the claim for periodic review and action:

(1) The applicable statute of limitations has been tolled or started anew; or

(2) Future collection can be effected by offset notwithstanding the statute of limitations.

#### **§1018.62 Reasons for terminating collection action.**

Collection action may be terminated:

(a) When it becomes clear that the Government cannot collect or enforce collection of any significant sum from the debtor having due regard for the judicial remedies available to the Government, the debtor's future financial prospects, and the exemptions available to the debtor under State and Federal law;

(b) When the debtor cannot be located, there is no security remaining to be liquidated, the applicable statute of limitations has run, and the prospects of collecting by offset, notwithstanding the bar of the statute of limitations, are too remote to justify retention of the claim; or

(c) When it is likely that the cost of the collection action will exceed the amount recoverable.

#### **§1018.63 Termination of collection action.**

Collection action shall be terminated:

(a) Whenever it is determined that the claim is legally without merit; or

(b) When it is determined that the evidence necessary to prove the claim cannot be produced, or necessary witnesses are unavailable, and efforts to induce voluntary payments have been unavailing.

#### **§1018.64 Transfer of a claim.**

The Board may refer a claim to GAO when there is doubt as to whether or not a collection action should be suspended or terminated.

### Subpart E—Referral of a Claim

#### **§1018.70 Prompt referral.**

(a) A claim which requires enforced collection is referred to GAO or DOJ for litigation. A referral is made as early as possible consistent with aggressive collection action and, in any event, well within the time required to bring a timely suit against the debtor. Ordinarily, referrals are made within 1 year of the Board's final determination of the fact and the amount of the debt.

(b) When the merits of the Board's claim, the amount owed on the claim, or the propriety of acceptance of a proposed compromise, suspension, or termination of collection actions is in doubt, the Board shall refer the matter to GAO for resolution and instruction prior to proceeding with collection actions and/or referral to DOJ for litigation.

(c) The Board may refer a claim to GAO or DOJ even though the termination of collection activity might otherwise be given consideration under §1018.63 if:

(1) A significant enforcement policy is involved in reducing a statutory penalty or forfeiture to judgment; or

(2) Recovery of a judgment is a prerequisite to the imposition of administrative sanctions, such as suspension

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or revocation of a license or privilege of participating in a Government sponsored program.

(d) Once a claim has been referred to GAO or DOJ under this subpart, the Board shall refrain from any contact with the debtor and shall direct the debtor to GAO or DOJ as appropriate, when questions concerning the claim are raised by the debtor. The Board shall immediately advise GAO or DOJ, as appropriate, of any payments by the debtor.

### **§1018.71 Referral of a compromise offer.**

The Board may refer a debtor's firm written offer of compromise which is substantial in amount to GAO or to DOJ if the Board is uncertain whether the offer should be accepted.

### **§1018.72 Referral to the Department of Justice.**

(a) Claims for which the gross original amount is over \$500,000 must be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530. Claims for which the gross original amount is \$500,000 or less must be referred to the Department of Justice's Nationwide Central Intake Facility.

(b) A claim of less than \$600, exclusive of interest, is not referred for litigation unless:

(1) Referral is important to a significant enforcement policy; or

(2) The debtor has the clear ability to pay the claim, and the government can effectively enforce payment.

(c) A claim on which the Board holds a judgment is referred to DOJ for further action if renewal of the judgment lien or enforced collection proceedings are justified under the criteria discussed in this part.

(d) Claims must be referred to the Department of Justice in the manner prescribed by 4 CFR 105.2. Care must be taken to preserve all files, records, and exhibits on claims referred under paragraphs (a) and (b) of this section.

## **Subpart F—Internal Revenue Service Procedure**

### **§1018.80 Reporting discharged debts to the Internal Revenue Service.**

When the Board discharges a debt for less than the full value of the indebtedness, it will report the outstanding balance discharged, not including interest to the Internal Revenue Service, using IRS Form 1099-G or any other form prescribed by the IRS, when:

(a) The principal amount of the debt not in dispute is \$600 or more;

(b) The obligation has not been discharged in a bankruptcy proceeding; and

(c) The obligation is no longer collectible either because the time limit in the applicable statute for enforcing collection expired during the tax year, or because during the tax year a formal compromise agreement was reached in which the debtor was legally discharged of all or a portion of the obligation.

## **Subpart G—Tax Refund Offset**

### **§1018.90 Purpose.**

This subpart establishes procedures for the Board to refer past-due debts to the Internal Revenue Service (IRS) for the offset against the income tax refunds of persons owing debts to the Board. It specifies the Board's procedures and the rights of the debtor applicable to claims for the payment of debts owed to the Board.

### **§1018.91 Applicability and scope.**

(a) These regulations implement 31 U.S.C. 3720A which authorizes the IRS to reduce a tax refund by the amount of a past-due legally enforceable debt owed to the Government of the United States.

(b) For purposes of this section, a past-due legally enforceable debt referable to the IRS is a debt which is owed to the Government of the United States and:

(1) Except in the case of a judgment debt, has been delinquent for at least 3 months but has not been delinquent for